

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	07/21/2011	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 8/26/2011

2. COMAR Codification

Title Subtitle Chapter Regulation

10 19 03 13

3. Name of Promulgating Authority

Department of Health and Mental Hygiene

4. Name of Regulations Coordinator

Michele Phinney

Telephone Number

410-767-5623

Mailing Address

201 W. Preston Street

City State Zip Code

Baltimore MD 21201

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phinneym@dnhm.state.md.us

5. Name of Person to Call About this Document

Thomas Cargiulo

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6. Check applicable items:

☒- New Regulations

☐ Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: .

☐ Repeal of Existing Regulations

☐ Recodification

☐ Incorporation by Reference of Documents Requiring DSD Approval

☐ Reproposal of Substantively Different Text:

: Md. R

(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

☒- Yes ☐ No

If yes, corresponding proposed text published in:

☐ same issue

☒- future issue

☐ previous issue; it appeared in

: Md. R

(vol.) (issue) (page no's) (date)

Under Maryland Register docket no.: --E.

8. Incorporation by Reference

☐ Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

☐ OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

☐ OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

☐ Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Kathleen A. Ellis, Assistant Attorney General, (telephone #410-767-1867) on July 20, 2011. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Joshua M. Sharfstein, M.D.

Title

Secretary

Date

July 21, 2011

Telephone No.

410-767-6500

Title 10

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 19 DANGEROUS DEVICES AND SUBSTANCES

10.19.03 Controlled Dangerous Substances

Authority: Criminal Law Article, §5-202(b) and 5-203, Annotated Code of Maryland

Notice of Proposed Action

□

The Secretary of Health and Mental Hygiene proposes to adopt new Regulation .13 under COMAR 10.19.03 Controlled Dangerous Substances.

Statement of Purpose

The purpose of this action is to ban the sale, distribution, and possession of 3,4 – Methylenedioxypyrovalerone (MDPV);, 4 – Methylenmethcathinone (Mephedrone, 4-MMC), 3,4 – Methylenedioxymethcathinone (Methylone, MDMC), 4 – Fluoromethcathinone (Flephedrone, 4-FMC), 3 – Fluoromethcathinone (3-FMC), and 4 – Methoxymethcathinone (Methedrone, bk-PMMA, PMMC) - generically known as "bath salts" - by adding them to the list of Schedule I controlled dangerous substances.

This action is being proposed because these drugs pose an imminent hazard to the public safety of the citizens of Maryland. Prior to this regulatory action, the Department created a webpage and solicited public comments regarding this issue. In addition, and as required by law, the Department has considered the factors listed in Criminal Law, §5-202(c), Annotated Code of Maryland. In accordance with Criminal Law, §5-202(d), the Department has developed a report outlining its findings and the Secretary has ordered that these substances do have a potential for abuse. All of this information may be found on the DHMH website (<http://www.dhmv.state.md.us/news/bathsalts/index.html>).

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele A. Phinney, Director, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499; TTY: 800-735-2258, or email to regs@dhmh.state.md.us, or fax to 410-767-6483. Comments will be accepted through September 26, 2011. A public hearing has not been scheduled.

Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 2012
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
This amendment adds drugs to the list of controlled dangerous substances and creates no economic impact.
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
See E above.
- G. Small Business Worksheet:

Attached Document:

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 19 DANGEROUS DEVICES AND SUBSTANCES

10.19.03 Controlled Dangerous Substances

Authority: Criminal Law Article, §5-202(b) and 5-203, Annotated Code of Maryland

ALL NEW

.13 Additional Controlled Dangerous Substances - Schedule I.

The following substances, also known as "bath salts", are added to the Maryland Controlled Dangerous Substances Act, Schedule I of the Criminal Law Article, §5-402, Annotated Code of Maryland:

- A. 3,4 – Methylenedioxypropylvalerone (MDPV);
- B. 4 – Methylmethcathinone (Mephedrone, 4-MMC);
- C. 3,4 – Methylenedioxymethcathinone (Methylone, MDMC);
- D. 4 – Fluoromethcathinone (Flephedrone, 4-FMC);
- E. 3 – Fluoromethcathinone (3-FMC); and
- F. 4 – Methoxymethcathinone (Methedrone, bk-PMMA, PMMC).

END NEW

JOSHUA M. SHARFSTEIN, M.D.>

Secretary of Health and Mental Hygiene